

(No. 151.)



1889.

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PARLIAMENT OF TASMANIA.

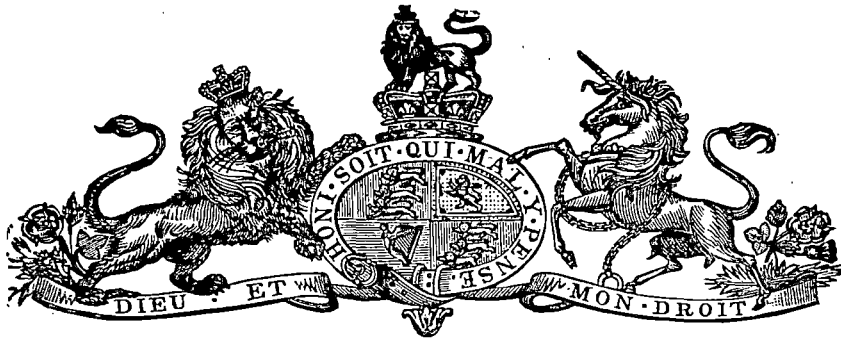
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LICENSING BILL, 1889, (No. 3):

MEMORANDUM OF THE ATTORNEY-GENERAL AS TO ORIGINATING TAXING  
PROVISIONS IN BILLS BY MESSAGE FROM THE GOVERNOR.

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Ordered by the Legislative Council to be printed.



*Attorney-General's Office,  
Hobart, 18th November, 1889.*

**MEMO. FOR THE HON. THE PREMIER.**

*Re* proposed Message from His Excellency the Governor recommending an amendment in the Bill to consolidate and amend the Law relating to the Sale of Spirituous Liquors, whereby an additional fee would become payable by the holders of Public-house licences authorising the Sale of Liquor after 10 o'clock p.m., I am of opinion that Section 30 of the Act of the Imperial Parliament, 5 & 6 Vict., Chap. 76, does not empower the Governor to return to the Legislative Council and the House of Assembly a Bill which has been presented to him for his assent and to recommend any alteration thereof or an addition thereto which would impose a new tax. Such an alteration of or an addition to any Bill would be more than an amendment of the Bill within the meaning of the Statute above mentioned.

The imposition of a new tax is essentially a distinct and substantial piece of independent legislation, and there is no legal or constitutional difference between the increase of an existing tax and the imposition of additional taxation in a new form.

It is also to be noted that the language of Section 30 of 5 & 6 Vict., Chap. 76, as well as the unvarying practice in such cases hitherto, indicate that all Messages from the Governor recommending an amendment to a Bill which has been presented to him for his assent are to be addressed to both Houses of Parliament. But I am of opinion that if the Governor were to transmit a Message to the Legislative Council recommending the imposition of a tax, it would be a direct contravention of Section 33 of 18 Vict. No. 17, which provides for the originating of every Bill imposing a tax in the House of Assembly upon recommendation of the Governor addressed to that House alone.

I am further of opinion that, apart from all strictly legal objections, it would be contrary to constitutional usage and the intendment of "The Constitution Act" for the Governor to initiate legislation involving new taxation by the exercise of the privilege conferred on him by Section 30 of 5 & 6 Vict., Chap. 76.

A. INGLIS CLARK, *Attorney-General.*